

May 25, 2010

## WISCONSIN SUPREME COURT

### TABLE OF PENDING CASES

Clerk of Supreme Court  
Telephone: (608) 266-1880  
Facsimile: (608) 267-0640  
Web Site: [www.wicourts.gov](http://www.wicourts.gov)  
Wisconsin Supreme Court Case Access: <http://wscca.wicourts.gov>

The following table describes pending cases the Supreme Court has accepted on petition for review, bypass, certification and original jurisdiction.

The cases included for the first time (that is, the most recently accepted cases) are marked with an \* next to the case number. After the Supreme Court decides a case, the date of oral argument or date of submission on briefs is replaced with the date of the Supreme Court decision and abbreviated mandate. That mandate will generally be listed in the table for two months and then the case will be removed from the table.

The information in the table, from left to right, is as follows:

- the case number;
- an abbreviated caption of the case (case name);
- a statement of the issue(s);
- the date the Supreme Court accepted the case;
- the method by which the case came to the Supreme Court: REVW = Petition for review, CERT = Certification, CERQ = Certified Question, BYPA = Petition to bypass, ORIG = Original Action, WRIT = Petition for supervisory writ, REMD = Remanded from the U.S. Supreme Court;
- the date of oral argument or submission on briefs; or the date of the Supreme Court decision and an abbreviated mandate;
- the Court of Appeals district from which the case came, if applicable; the county;
- the date of the Court of Appeals decision, if applicable;
- whether the Court of Appeals decision is published or unpublished, and, if it is published, the citations to the public domain citation and the official reports for the Court of Appeals decision.

The statement of the issue is cursory and does not purport to be an all-inclusive, precise statement of the issues in the case. Readers interested in a case should determine the precise nature of the issues from the record and briefs filed with the Supreme Court.

The following table covers cases accepted and decisions issued through **May 25, 2010**. Please direct any comments regarding this table to the Clerk of Supreme Court, P.O. Box 1688, Madison, WI 53701-1688, telephone (608)266-1880.

# APPENDIX

## WISCONSIN SUPREME COURT PENDING CASES

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Case No.	Caption/Issue(s)	SC Accepted	CA Dist/Cty	CA Decision
2006AP948	<u>Jackson v. Buchler</u>  Was the petitioner denied a fair and impartial decision maker in violation of due process and equal protection of law under the Fifth and Fourteenth Amendments to the United States Constitution and Art. I, § 9 of the Wisconsin Constitution?  Did the petitioner fail to exhaust his administrative remedies concerning his claim that he was unconstitutionally denied the opportunity to review a videotape, and if he has failed to exhaust his administrative remedies, may the court nonetheless decide the issues set forth in the petition for review and listed below? See Wis. Stat. § 801.02(7)(b); Wis. Admin. Code § DOC 310.05; State ex rel. Hensley v. Endicott, 2001 WI 105, 245 Wis. 2d 607, 629 N.W.2d 686; State ex rel. Smith v. McCaughtry, 222 Wis. 2d 68, 586 N.W.2d 63 (Ct. App. 1998); Santiago v. Ware, 205 Wis. 2d 295, 556 N.W.2d 356 (Ct. App.), rev. denied, 207 Wis. 2d 284, 560 N.W.2d 273 (1996).  Does the obligation of governmental authorities to produce exculpatory information, as set forth in Brady v. Maryland, 373 U.S. 83 (1963), and its progeny, apply to all or some prison disciplinary proceedings, and, in particular, to the disciplinary proceeding against the petitioner? See, e.g., Wolff v. McDonnell, 418 U.S. 539 (1974); Piggie v. Cotton, 344 F.3d 674 (7 <sup>th</sup> Cir. 2003); State ex rel. Ortega v. McCaughtry, 221 Wis. 2d 376, 585 N.W.2d 640 (Ct. App. 1998).  If there is an obligation on governmental authorities to produce potentially exculpatory information, what should be the process for determining whether the information sought is exculpatory and what should be the remedy for the failure to produce it?  Was the petitioner deprived of due process and equal protection of the law under the Fifth and Fourteenth Amendments to the United States Constitution and Art. I, § 9 of the Wisconsin Constitution when he was denied the right to obtain a videotape that he contends is exculpatory evidence?  Was the petitioner deprived of due process and equal protection when there was insufficient evidence of his guilt, as he contends?	04/14/2009 REVW Oral Arg 12/01/2009	4 Dane	12/13/2007 Unpub
2006AP1811-CR	<u>State v. Patrick C. Carter</u>  Is a defendant who is arrested in another state on both a violation of the other state's criminal law and a Wisconsin-issued fugitive warrant based on pending criminal charges entitled to sentence credit on a concurrent sentence for the time spent in custody in the other state after arrest and before sentencing on the other state's conviction?	03/18/2008 REVW Oral Arg 10/21/2009	1 Milwaukee	12/19/2007 Pub 2007 WI App 255 743 N.W.2d 700

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Case No.	Caption/Issue(s)	SC Accepted	CA Dist/Cty	CA Decision
2007AP477	<u>William N. Ehlinger v. Jon A. Hauser and Evald Molding, Inc.</u>  Does Restatement (Second) of Contracts § 204 permit the trial court to supply a term to resolve an ambiguity that has no terms omitted and is not indefinite?  Do generally acceptable accounting principles (GAAP) require supporting documentation to determine book value?  May the trial court seek a professional opinion without following statutory due process requirements for either referees or court appointed experts?  Is the cross-petition's challenge to the use of corporate assets to pay one shareholder's litigation expenses independent of the petition's challenge to the trial court's contract interpretation and dissolution of the company of which the parties were shareholders?  Was the "special magistrate" appointed by the trial court as a referee or as an expert witness?	02/10/2009 REVW Oral Arg 09/15/2009	4 Jefferson	7/24/2008 Pub 2008 WI App 123 758 N.W.2d 476
2007AP795	<u>State v. Aaron Antonio Allen</u>  Where a defendant fails to raise a potential claim in response to a no-merit report, what additional showing, if any, is necessary to constitute "sufficient reason" authorizing that defendant to raise the claim in a subsequent motion under Wis. Stat. §974.06?  Does requiring a defendant to respond to a no-merit report with arguable claims that were overlooked by appointed counsel and barring the defendant from ever raising any claim not so raised, conflict with the right to counsel on direct appeal?	03/18/2009 REVW Oral Arg 04/28/2010	1 Milwaukee	03/25/2008 Unpub
2007AP900-CR	<u>State v. Michael A. Littlejohn</u>  Did the warrantless search of the defendant's car, after he had parked and locked it and begun walking to his residence and was then arrested, handcuffed, and secured in a police car for the offense of operating with a revoked driver's license, violate the Fourth Amendment of the United States Constitution?  Did the warrantless search of the defendant's automobile violate Article I, § 11 of the Wisconsin Constitution?	11/12/2009 REVW Oral Arg 04/13/2010	4 Monroe	01/10/2008 Pub 2008 WI App 45 747 N.W.2d 712
2007AP1253	<u>Brunton v. Nuvel Credit Corp.</u>  In a case arising out of a consumer credit transaction, when is a Defendant deemed to have waived a challenge of improper venue under Wis. Stat. § 431.401 – the Wisconsin Consumer Act's venue provision?	04/14/2009 REVW Oral Arg 10/13/2009	4 Dane	12/30/2008 Pub 2009 WI App 3

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2007AP1868	<u>Johnson Controls, Inc. v. London Market</u>  Should a duty to defend be imported from an underlying umbrella insurance policy into an excess umbrella liability policy by language in the excess policy stating that it is subject to the same terms, definitions, exclusions and conditions as the underlying policy "except as otherwise provided"?  Is the excess liability carrier's duty to defend primary in nature, such that it may be triggered even if the excess policy expressly requires exhaustion of the underlying policy as a precondition to liability and the underlying policy has not been exhausted?	04/14/2009 CERT Oral Arg 02/23/2010	1 Milwaukee	---
2007AP1894-CR	<u>State v. David A. Dearborn</u>  Was the defendant denied his right to a unanimous jury verdict due to an instruction defining proof of one element as assault or resistance or obstruction of a conservation warden?  Was a search of the defendant's locked vehicle after he was arrested, handcuffed, and secured in the back of a squad car constitutionally unreasonable?	11/12/2009 REVW Oral Arg 04/13/2010	4 Grant	07/24/2008 Pub 2008 WI App 131 758 N.W.2d 463
2007AP2711-CR	<u>State v. Donald J. McGuire</u>  Whether the statute of limitations tolling provision of Wis. Stat. § 939.74 (1) (1966 – 69) for any time when the defendant "was not publicly a resident within the state," as applied to this case, violated either the defendant's right to equal protection and due process or the privileges and immunity clauses of the United States Constitution.  Whether a 36-year delay in filing criminal charges violates a defendant's right to due process in relation to the statute of limitations.  Whether reversal in the interests of justice under Wis. Stat. § 751.06 due to the delay in filing charges is an appropriate remedy.	09/10/2009 REVW Oral Arg 01/05/2010	2 Walworth	06/30/2009 Unpub

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2007AP2791	<u>Admanco, Inc. v. 700 Stanton Drive, LLC</u>  Is a beneficiary of a letter of credit from a bank which holds a general business security agreement on all of the debtor's property a "secured creditor" as that term is defined under Wis. Stat. § 128.25 (1) and therefore outside the purview of Wis. Stat. ch. 128?  Is there a violation of the "independence principle" of Wis. Stat. § 405.103 and common law governing letters of credit in allowing an action against the beneficiary of a letter of credit arising out of the issuer's enforcement of its security interest against the debtor's estate?	09/10/2009 REVW Oral Arg 01/05/2010	2 Fond du Lac	05/27/2009 Pub 2009 WI App 57 768 N.W.2d 32
2007AP2827-CRAC	<u>State v. Corey Kleser</u>  Does Wis. Stat. § 970.032 (reverse waiver statute) require that any evidence concerning the facts of a crime be introduced only at a preliminary hearing (or in a criminal complaint if a preliminary hearing is waived)?  Is expert testimony at a reverse waiver hearing by a psychologist concerning a juvenile defendant's version of the events underlying the alleged offenses inadmissible under the hearsay rules, and may a circuit court substantively rely on such testimony regarding the underlying facts?  Did the circuit court err in relying on a defense psychologist's opinion regarding the circumstances of an alleged offense by a juvenile? Did the psychologist's testimony constitute an opinion regarding the truthfulness of the juvenile's statements concerning the facts of an alleged offense?  May a circuit court consider the full testimony of a defense psychologist regarding a juvenile's statements concerning the facts of an alleged offense, after prohibiting the state's psychological expert witness from interviewing the juvenile defendant regarding the facts of the relevant incidents?	07/15/2009 REVW Oral Arg 11/11/2009	1 Milwaukee	04/29/2009 Pub 2009 WI App 43
2007AP2861	<u>Racine County v. Oracular Milwaukee, Inc.</u>  Is expert testimony required to prove a breach of contract claim based on timely completion/delay when a contract involves complex interdependent bilateral performance?  What is the proper analysis/criteria for determining whether something is considered a "profession" under Wisconsin law?  Are persons providing computer software programming services relating to customized software considered "professionals" under Wisconsin law?	08/17/2009 REVW <b>Affirmed</b> <b>04/02/2010</b> <b>2010 WI 25</b>	2 Racine	04/08/2009 Pub 2009 WI App 58 767 NW2d 280

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2007AP2886	<u>The Saddle Ridge Corp. v. Board of Review for Town of Pacific</u>  Who is assessable for the fair market value of declared but unbuilt condominium units?  Is the property in condominiums assessable to its beneficial owner, just as all other real property is assessable to its beneficial owner?  Is the condominium developer the beneficial owner of the declared but unbuilt units that will be built on undeveloped land?	12/15/2009 REVW Oral Arg 04/12/2010	4 Columbia	08/27/2009 Unpub
2008AP52	<u>State v. Daniel Arends</u>  Did the Court of Appeals correctly interpret legislative intent in adopting new language in Wis. Stat. § 980.09, "when it held that the standard for granting a discharge trial had not changed despite the legislature's selection of language new and different from the language of repealed Wis. Stat. § 980.09(2)(2003-04)"?  Does Wis. Stat. § 980.09 allow a circuit court to deny a petition for discharge without a hearing if, after weighing all the information presented, it concludes that the petition has not alleged sufficient facts to support the conclusion that the petition showed a change in his condition or his dangerousness?	02/10/2009 REVW Oral Arg 09/11/2009	2 Washington	11/19/2008 Pub 2008 WI App 184
2008AP89	<u>Michael Pries v. Raymond McMillon</u>  Whether a public employee's duty of care falls within the "grave and compelling danger" exception to public officer immunity recognized in <u>Cords v. Anderson</u> , 80 Wis. 2d 525, 259 N.W.2d 672 (1977).	11/03/2009 REVW Oral Arg 03/09/2010	1 Milwaukee	11/12/2008 Pub 2008 WI App 167 314 Wis. 2d 706 760 N.W.2d 174
2008AP170	<u>Walter Tatera, et al. v. FMC Corporation, et al.</u>  Do the facts of this case fit within one of the two "narrow exceptions" to the general rule (confirmed in <u>Wagner v. Continental Cas. Co.</u> , 143 Wis. 2d 379, 421 N.W.2d 835 (1988)) that a principal employer is not liable in tort for injuries sustained by an employee of an independent contractor?  Whether Wisconsin law permits the application of <u>Restatement (Second) of Torts</u> § 402A (1965) against a corporation that provided an unreasonably dangerous product to a machine shop for alteration that caused injury to a worker at the machine shop?  Does an "affirmative act of negligence" as defined in <u>Wagner</u> include a failure to warn claim premised upon <u>Restatement (Second) of Torts</u> , § 388?  Does "abnormally dangerous or extrahazardous" work as defined in <u>Wagner</u> include machining asbestos containing friction disks?	11/03/2009 REVW Oral Arg 03/03/2010	1 Milwaukee	06/30/2009 Pub 2009 WI App 80 768 N.W.2d 198

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2008AP266-CR	<u>State v. Terion Lamar Robinson</u>  Did the court of appeals' decision expand Wisconsin's good faith exception to the exclusionary rule?  Is a commitment order a warrant for the purpose of a lawful arrest?  Is reliance on an anonymous tip sufficient to enter and arrest a subject at the home of a third party?	11/12/2009 REVW Oral Arg 04/13/2010	1 Milwaukee	06/30/2009 Pub 2009 WI App 97 770 N.W.2d 721
2008AP322	<u>Nestle USA, Inc. v. Wis. Dept. of Revenue</u>  What evaluation standards are to be used by the Tax Appeals Commission to assess specialized manufacturing facilities that have a limited market? (See Wis. Stat. § 70.32(1), <u>State ex rel. Markarian v. City of Cudahy</u> , 45 Wis. 2d 683, 686, 173 N.W.2d 627 (1970) and <u>State ex rel. Northwestern Mut. Life Ins. Co. v. Weiher</u> , 177 Wis. 445, 448, 188 N.W. 598 (1922)).  Whether the tax assessment of a manufacturing facility should be based upon its unique value to the present owner or upon market value.	03/09/2010 REVW	4 Dane	11/24/2009 Pub 2009 WI App 159 776 N.W.2d 589
2008AP552-CR	<u>State of Wisconsin v. Scott Jensen</u>  Do the provisions of Wis. Stat. § 971.19(12), governing transfer of venue, apply where the duties the defendant had been charged with violating in his capacity as a public officer were found in various places, including the elections and ethics statutes?	06/16/2009 REVW <b>Reversed</b> <b>05/20/2010</b> <b>2010 WI 38</b>	4 Dane	01/15/2009 Pub 2009 WI App 26 762 N.W.2d 833
2008AP652-CR	<u>State v. Jim H. Ringer</u>  Under the court's ruling in <u>State v. DeSantis</u> , 155 Wis. 2d 774, 456 N.W.2d 600 (1990), what is the necessary threshold to show that a victim's previous rape allegations were untruthful?  May a prior untruthful allegation of sexual assault be proven by extrinsic evidence under <u>State v. Rognrud</u> , 156 Wis. 2d 783, 457 N.W.2d 573 (Ct. App. 1990)?  Did the State waive its right to raise the issue regarding proof by extrinsic evidence?	09/24/2009 REVW Oral Arg 02/10/2010	3 Barron	07/29/2009 Unpub

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2008AP658-CR	<u>State v. Michael A. Sveum</u>  Does a warrantless placement of a Global Positioning System (GPS) tracking device on a vehicle and its subsequent 24-hour monitoring of the vehicle's location on public roads by police violate the Fourth Amendment to the United States Constitution?  Does the Wisconsin Electronic Surveillance Control Law (Wis. Stat. §§ 968.27 - .37) require judicial approval for the police to place a GPS tracking device on a vehicle to record its travel?	10/13/2009 REVW Oral Arg 03/02/2010	4 Dane	06/30/2009 Pub 2009 WI App 81 769 N.W.2d 53
2008AP697-CR	<u>State of Wisconsin v. Dimitri Henley</u>  Is the circuit court permitted to grant a new trial in the interest of justice under Wis. Stat. § 805.15(1) without time limit?  If it is not so permitted, does the circuit court have inherent authority to grant this relief?  If it does not, may the Court of Appeals use its power of discretionary reversal under Wis. Stat. §752.35 to reach back to the original judgment of conviction and grant the same relief?  If it may not, does the Court of Appeals have inherent authority to grant such relief?  If it does not, should the Supreme Court exercise its inherent authority to grant relief in this case?	02/10/2009 CERT Oral Arg 10/20/2009	4 Jefferson	---
2008AP755-CR	<u>State v. Joshua D. Conger</u>  What is the trial court's scope of review when deciding whether to accept or reject a plea agreement?  What factors must a trial court consider when determining whether a plea agreement is in the public interest?  May a trial court take into account the view of law enforcement when considering the public's interest in a plea agreement?	08/17/2009 CERT Oral Arg 12/01/2009	2 Fond du Lac	---
2008AP787	<u>Francis Groshek v. Michael Trewin</u>  May punitive damages be awarded to a plaintiff who sought and obtained equitable relief?  Does an attorney owe a fiduciary duty to former clients when negotiating and entering into a transaction with them, when they are represented by independent successor counsel, and allegedly have sought out the transaction and initiated negotiations?	08/17/2009 REVW Oral Arg 02/09/2010	4 Portage	03/26/2009 Unpub

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2008AP810-CR	<u>State v. Landray M. Harris</u>  Do comments suggesting a circuit court considered a defendant's race at sentencing provide an independent basis for vacating a sentence? Or must defendants continue to establish that a circuit court actually relied on irrelevant or improper factors like race?  If comments suggesting that a circuit court considered race at sentencing provide an independent basis for vacating sentences, what would a defendant need to prove to succeed?  If comments suggesting that a circuit court considered race at sentencing provide an independent basis for vacating sentences, what standard of review would apply?  If comments suggesting that a circuit court considered race at sentencing provide an independent basis for vacating sentences, must a defendant contemporaneously object to comments to preserve the right to raise the new resentencing claims?	05/13/2009 REVW Oral Arg 10/20/2009	1 Milwaukee	01/21/2009 Unpub
2008AP880-CR	<u>State v. Robert Lee Artic, Sr.</u>  In the warrantless invasion of the defendant's _artilage, were the creation of claimed exigent circumstances and forced entry sufficiently attenuated from any illegality to render the defendant's consent to search valid?  Should the Supreme Court adopt a per se rule barring the fruits of any search or seizure where police manufacture exigent circumstances?	02/10/2009 REVW Oral Arg 09/11/2009	1 Milwaukee	12/09/2008 Pub 2009 WI App 12
2008AP912	<u>Bank Mutual v. S.J. Boyer Construction, Inc.</u>  Does a commercial mortgage holder's exercise of the right to obtain a shortened redemption period under § 846.103(2) require it to forfeit rights against a guarantor of payment because the guarantor is a "... party who is personally liable for the debts secured by the mortgage" under the statute?  Can a guarantor of payment contractually waive an objection to, and consent to, a mortgage holder's election under § 846.103(2) such that all rights against the guarantor are retained?	04/14/2009 REVW Oral Arg 10/20/2009	3 Brown	12/23/2008 Pub 2009 WI App 14

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2008AP919	<u>James Zarder, et al. v. Acuity, et al.</u>  Does a policy of insurance mandate uninsured motorist coverage for an alleged "hit-and-run" accident involving an unidentified motor vehicle and an insured where there is no "run," as that term is understood in the context of Wis. Stat. § 632.32 (4)?  When an insurance policy covers "hit-and-run" as part of an uninsured motorist provision and the policy does not define the term, does "run" mean to flee without stopping?  Does <u>Hayne v. Progressive Northern Ins. Co.</u> , 115 Wis. 2d 68, 339 N.W.2d 588 (1983) provide a binding legal definition of "run"?	10/20/2009 REVW <b>Modified and Affirmed</b> <b>05/14/2010</b> <b>2010 WI 35</b>	2 Waukesha	03/25/2009 Pub 2009 WI App 34 316 Wis. 2d 573 765 N.W.2d 839
2008AP921	<u>E-L Enterprises, Inc. v. Milwaukee Metropolitan Sewerage District</u>  Does a private landowner own the groundwater under its land such that the government's use of groundwater under neighboring land constitutes a "taking"?  Is a building owner entitled to relief on a takings claim if the government's use of groundwater caused reparable foundation damage but did not deprive the owner of all economically beneficial or productive use of its property?  Was the District's use of groundwater an "occupation" of E-L's property, entitling E-L to recover litigation expenses and attorney fees on an inverse condemnation claim under Wis. Stat. § 32.10?  What is the applicability of the provisions regarding takings of property in the United States Constitution?	05/12/2009 REVW Oral Arg 10/21/2009	1 Milwaukee	12/23/2008 Pub 2009 WI App 15 763 NW2d 231
2008AP967-AC	<u>Schill v. Wisconsin Rapids School District</u>  Are the personal e-mails of public employees that are maintained on publicly owned computers "records" under Wis. Stat. § 19.32(2) [the public records law]?  Even if the personal e-mails of public employees maintained on publicly owned computers are "records" under the public records law, is the presumption favoring disclosure of public records overcome by the public interest in protecting the privacy and reputational rights of citizens?	06/16/2009 CERT Oral Arg 11/10/2009	4 Wood	---

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2008AP1144	<u>Borek Cranberry Marsh, Inc. v. Jackson County</u>  Did the 1978 deed from Jackson County to Borek's predecessor in title convey the right to extract sand only to the grantee, or to the grantee and his heirs and assigns?  Should the 1978 deed be interpreted in the county's favor according to <u>Brody v. Long</u> , 13 Wis. 2d 288, 108 N.E.2d 662 (1961) (deeds are to be construed in favor of public bodies)?	11/12/2009 REVW Oral Arg 02/09/2010	4 Jackson	08/27/2009 Pub 2009 WI App 129
2008AP1185-CR	<u>State v. Michael James Carter</u>  Did the court of appeals improperly remand to the circuit court for further proceedings on the defendant's claim that his trial counsel was ineffective for not seeking to introduce evidence that the defendant's sexual assault victim was previously assaulted by another person when the defendant failed to show exactly what counsel should have done to uncover evidence of the prior incident and that evidence of the assault would have been admissible?	07/01/2009 REVW <b>Reversed</b> <b>05/25/2010</b> <b>2010 WI 40</b>	1 Milwaukee	03/12/2009 Unpub
2008AP1204-CR	<u>State v. Juiquin A. Pinkard</u>  Whether a warrantless search of a defendant's residence falls within the "community caretaker" exception (discussed in <u>State v. Kramer</u> , 2009 WI 14, 315 Wis.2d 414, 759 N.W.2d 598) to the guarantees against unreasonable search and seizure found in the Fourth and Fourteenth Amendments to the U.S. Constitution and Article I Section 11 of the Wisconsin Constitution.	09/11/2009 REVW Oral Arg 01/07/2010	1 Milwaukee	05/27/2009 Unpub
2008AP1296-CR	<u>State v. Janet A. Conner</u>  What degree of specificity is required in charging dates of alleged conduct in a criminal information to satisfy the accused's constitutional due process rights of notice of the charged offenses?  Does Wis. Stat. § 940.32(2m)(b) require that the state prove that a "course of conduct," constituting two or more acts, occur after the operative prior conviction in order to establish a violation of the aggravated stalking offense?  Whether a defendant received adequate notice of the nature and cause of the criminal accusations in an information ( <u>See State v. Cheers</u> , 102 Wis. 2d 367, 403 – 04, 306 N.W.2d 676 (1981) and <u>State v. Copening</u> , 103 Wis. 2d 564, 576, 309 N.W.2d 850 (1981)).	03/16/2010 REVW	4 Richland	10/28/2009 Pub 2009 WI App 143 775 N.W.2d 105

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Case No.	Caption/Issue(s)	SC Accepted	CA Dist/Cty	CA Decision
2008AP1303	<u>Roehl Transport, Inc. v. Liberty Mut. Ins. Co.</u>  Whether Wisconsin law recognizes an insured's bad faith claim against its liability insurer for failing to reasonably defend the insured's high deductible.  Whether attorney fees in a bad faith action must be decided by the jury or whether they may be awarded post-trial by the court.	11/03/2009 CERT Oral Arg 03/03/2010	3 St. Croix	--
2008AP1324	<u>Kevin Blum, Jr. v. 1<sup>st</sup> Auto &amp; Casualty Ins. Co.</u>  Whether an insured motorist is entitled to uninsured motorist coverage when he/she is seriously injured by a vehicle that meets the policy definition of "uninsured motor vehicle" and satisfies all of the conditions for coverage set forth in the policy, but the operator of the vehicle possesses insurance.  Whether uninsured motorist coverage should be determined by the ordinary meaning of the terms and definitions set forth in an insurance policy or limited by the court's interpretation of the minimum coverage required by Wis. Stat. § 632.32 (4) ( <u>See Hull v. State Farm Mutual Automobile Ins. Co.</u> , 222 Wis. 2d 627, 586 N.W.2d 863 (1998)).  Whether a Court of Appeals' decision possesses precedential value after the decision is overruled by the supreme court and the court expressly declines to limit the decision to its facts ( <u>See Hemerley v. American Family Mut. Ins. Co.</u> , 127 Wis. 2d 304, 379 N.W.2d 860 (Ct. App. 1985) and <u>Hull v. State Farm Mutual Automobile Ins. Co.</u> , <i>supra</i> ).  Whether an ambiguous insurance policy should be construed in favor of the insured or construed in favor of the drafter.	10/20/2009 REVW Oral Arg 02/10/2010	4 Sauk	01/28/2009 Pub 2009 WI App 19 315 Wis. 2d 822 762 N.W.2d 819

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Case No.	Caption/Issue(s)	SC Accepted	CA Dist/Cty	CA Decision
2008AP1494	<p><u>Miller v. The Hanover Insurance Co.</u></p> <p>Under Wis. Stat. § 801.14(2), when a defendant has not been dismissed as a party to an action, may a plaintiff serve an amended complaint on that defendant directly and not serve that defendant's attorney of record or even provide him with a copy of the pleading when:</p> <p>(a) the defendant appeared in the case through its attorney of record;</p> <p>(b) the defendant timely answered the original complaint through that attorney;</p> <p>(c) the defendant's attorney never withdrew from the case;</p> <p>(d) the defendant's attorney remained the attorney of record throughout the course of the proceedings; and</p> <p>(e) the trial court never issued an order allowing the plaintiff to serve the party in person?</p> <p>Can a default judgment be entered on a defendant's failure to answer an amended complaint within 45 days of service on the defendant directly when:</p> <p>(a) the defendant was represented by an attorney in the action;</p> <p>(b) the amended complaint was never served on the defendant's attorney or a copy provided to the attorney; and</p> <p>(c) the defendant answered the amended complaint before it was served on its attorney of record?</p> <p>Do the totality of the interests of justice factors need to be considered on a Motion for relief under Wis. Stat. § 806.07(1)(h)?</p> <p>Did the court of appeals err when it upheld the trial court's decision limiting the Millers' \$9,666,314.98 damages award to \$2,000,000 recovery based on the allegations of the amended complaint, the insurance policies and the law related to default judgment?</p>	<p>12/15/2009 REVW Oral Arg 04/15/2010</p>	<p>4 Monroe</p>	<p>07/30/2009 Unpub</p>
2008AP1521-CR	<p><u>State v. Rashaad A. Imani</u></p> <p>Whether a remand for a new trial or for a retrospective evidentiary hearing is the appropriate remedy following a circuit court's omission to conduct a self-representation colloquy under <u>State v. Klessig</u>, 211 Wis. 2d 194, 564 N.W.2d 716 (1997).</p>	<p>09/24/2009 REVW Oral Arg 02/09/2010</p>	<p>2 Waukesha</p>	<p>07/29/2009 Pub 2009 WI App 98</p>

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Case No.	Caption/Issue(s)	SC Accepted	CA Dist/Cty	CA Decision
2008AP1546	<u>Robert D. Konneker v. Robert S. Romano, et al.</u>  On a motion for summary judgment, can the circuit court find that riparian rights, including the right to install a pier, were granted by an easement, where the easement was silent as to riparian rights; where there is no evidence of the original parties' intent with regard to the scope of the easement; where there was no pier located on the easement, but there were piers located on the riparian servient estate which were used by prior easement holders; and where there is evidence that the primary use of the lake-access on which the easement lies is to enter the lake by boat?  Whether Wis. Stat. §§ 30.131 and 30.133 apply, and if so, what is the impact of those statutory sections on the issues in this case; see <u>Wendt v. Blazek</u> , 2001 WI App 91, 242 Wis. 2d 722, 626 N.W.2d 78 <u>rev. denied</u> , 2001 WI 88, 246 Wis. 2d 168, 630 N.W.2d 221; <u>Ellingsworth v. Swiggum</u> , 195 Wis. 2d 142, 536 N.W.2d 112, <u>rev. denied</u> , ____ Wis. 2d ____, 537 N.W.2d 572 (1995).	10/20/2009 REVW Oral Arg 02/11/2010	2 Green Lake	04/29/2009 Unpub
2008AP1684	<u>Milwaukee Symphony Orchestra v. Wisconsin Dept. of Revenue</u>  Does the term "entertainment" as used in Wis. Stat. § 77.52(2)(a)2. include the admission to a symphonic event, such as performed by the Milwaukee Symphony Orchestra?	08/17/2009 REVW <b>Affirmed</b> <b>05/05/2010</b> <b>2010 WI 33</b>	4 Dane	04/16/2009 Pub 2009 WI App 69 767 NW2d 360
2008AP1700	<u>Maryland Arms Limited Partnership v. Cari M. Connell</u>  Can a landlord and tenant contractually agree to affix liability on a tenant for any property damage that, while caused by an act of the tenant, was not caused by the tenant's negligence or improper use of the leased premises?	09/24/2009 Oral Arg 01/06/2010	1 Milwaukee	06/30/2009 Pub 2009 WI App 87 769 N.W.2d 145
2008AP1703	<u>Dawn M. Sands v. Menard, Inc.</u>  Must an employer/client's right to choose its general counsel yield to an arbitration award for reinstatement when neither the employer/client nor its former employee/general counsel had requested that remedy and when the attorney-client relationship is irretrievably broken?	09/10/2009 REVW Oral Arg 01/05/2010	3 Eau Claire	05/27/2009 Pub 2009 WI App 70 767 N.W.2d 332

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Case No.	Caption/Issue(s)	SC Accepted	CA Dist/Cty	CA Decision
2008AP1735	<u>Ash Park, LLC v. Alexander &amp; Bishop, Ltd.</u>  May a seller of real estate seek both specific performance, as well as interest on the purchase price, without a requirement that it mitigate damages?  What is the proper procedure that should accompany an order for specific performance by a buyer in a real estate transaction?  a. May a circuit court unconditionally order a buyer to complete a real estate transaction, including paying the purchase price? Must the circuit court consider a buyer's ability to pay or any other particular factor before issuing such an order: If such an order is proper, is the circuit court obligated to establish a time frame within which the transaction must be completed? What results if the buyer does not complete the transaction as ordered?  b. Alternatively, must the circuit court, as part of an order of specific performance, order that the property be sold at a judicial sale, or must a buyer who is subject to an order of specific performance make some showing in order to obtain an order for a judicial sale? Stated another way, should the "better practice" of ordering a judicial sale, as described in <u>Heins v. Thompson and Flieth Lumber Co.</u> , 165 Wis. 563, 163 N.W. 173 (1917), be a required course of action or simply a recommendation for the circuit court to consider in the exercise of its discretion?  Does a seller of real estate have any duty to "mitigate" its harm at any point after a buyer has failed to complete a transaction as required by the parties' contract? If so, what actions must a seller take to "mitigate" its harm?  Is a seller of real estate who obtains an order of specific performance against a buyer entitled to prejudgment and postjudgment interest? Does an award of interest depend on who has possession of the property? If an award of interest is proper generally, should there be a limit to the periods for which interest can be awarded? How should such a limit be determined?	10/20/2009 REVW Oral Arg 02/23/2010	3 Brown	05/27/2009 Pub 2009 WI App 71 314 Wis. 2d 772 767 N.W.2d 614

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Case No.	Caption/Issue(s)	SC Accepted	CA Dist/Cty	CA Decision
2008AP1845	<u>Town Bank v. City Real Estate Development, LLC</u>  In a construction finance contract, is an integration clause to specifically identify and expressly negate antecedent agreements required before parol evidence may be barred to determine the contracting parties' intent? (See <u>Federal Deposit Ins. Corp. v. First Mortgage Investors</u> , 76 Wis. 2d 151, 157-58, 250 N.W.2d 362 (1977) and <u>Dairyland Equip. Leasing, Inc. v. Bohen</u> , 94 Wis. 2d 600, 607-08, 288 N.W.2d 852 (1980)).  Is parol evidence that does not conflict with a subsequent written agreement always admissible to show whether an antecedent agreement was intended to be superceded?	03/09/2010 REVW	2 Waukesha	11/24/2009 Pub 2009 WI App 160 777 N.W.2d 98
2008AP1868	<u>William C. McConkey v. J.B. Van Hollen</u>  Was Article XIII, Section 13 of the Wisconsin Constitution, commonly known as the marriage amendment, enacted in violation of the single subject rule set forth in Article XII, Section 1 of the Wisconsin Constitution?  Can a voter who would have voted the same way on each of two propositions included in a single ballot referendum claim to have personally suffered a direct injury by an alleged violation of the single subject rule?	05/12/2009 CERT Oral Arg 11/03/2009	4 Dane	---
2008AP1968-CR	<u>State v. Patrick R. Patterson</u>  Is contributing to the delinquency of a child resulting in death a lesser-included offense of first-degree reckless homicide under Wis. Stat. § 939.66(2)?  Can one contribute to the delinquency of a 17-year-old individual when such individuals are no longer subject to juvenile delinquency petitions?  Was a reckless homicide jury instruction defective because it gave as an element to be proved that the deceased used and died from a substance "alleged to have been delivered by the defendant?"  Was there prosecutorial misconduct in refreshing the recollection of witnesses with the testimony and statements of other witnesses?	03/17/2010 REVW	4 Juneau	11/24/2009 Pub 2009 WI App 161 776 N.W.2d 602

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2008AP2028	<u>Barbara C. Grygiel v. Monches Fish &amp; Game Club, Inc.</u>  Does <u>Millen v. Thomas</u> , 201 Wis. 2d 675, 550 N.W.2d 134 (Ct. App. 1996) allow holders of appurtenant easements to expand the use of those easements to access other unrelated lands, subject to a post-use analysis concerning the degree of “burden”?  Should there be a “home base” exception to allow an easement’s scope and purpose be expanded to new non-dominant land, so long as the easement holder touches the dominant “home base” before going to the non-dominant lands, and the easement holder does not actually own the new lands?	10/22/2009 REVW Oral Arg 02/11/2010	2 Washington	07/29/2009 Pub 2009 WI App 102 770 N.W.2d 749
2008AP2045	<u>Evelyn Werner v. Kenneth Hendree</u>  Whether litigation was final to invoke appellate jurisdiction under Wis. Stat. § 808.03 with respect to actions taken by a non-party where litigation as to damages continued.  Does “insurance applicable” in Wis. Stat. § 895.46 require the State to pay a judgment against a State employee when the employee did not cooperate with the litigation defense?  Does the “particular way” requirement described in <u>Lodl v. Progressive Northern Ins. Co.</u> , 2002 WI 71, 253 Wis.2d 323, 646 N.W.2d 314, conflict with <u>Cords v. Anderson</u> , 80 Wis. 2d 525, 259 N.W.2d 672 (1977), and <u>Domino v. Walworth County</u> , 118 Wis. 2d 488, 347 N.W.2d 917 (Ct. App. 1984) when analyzing the “known danger” exception to a governmental officer’s tort immunity?	03/16/2010 REVW	2 Waukesha	07/29/2009 Pub 2009 WI App 103 320 Wis.2d 592 770 N.W.2d 782
2008AP2231-CR	<u>State v. Michael R. Hess</u>  Did the good-faith exception to the exclusionary rule ( <u>see State v. Eason</u> , 2001 WI 98, 245 Wis. 2d 206, 629 N.W.2d 625) apply when evidence of a crime was discovered by a law enforcement officer while executing an arrest warrant that was improperly issued by a circuit court?	11/03/2009 REVW Oral Arg 03/02/2010	2 Walworth	07/29/2009 Pub 2009 WI App 105 770 N.W.2d 769

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Case No.	Caption/Issue(s)	SC Accepted	CA Dist/Cty	CA Decision
2008AP2342-CR	<u>State v. Dwight Glen Jones</u>  Should the defendant receive a new trial because the failure to allow him a new attorney when one was available denied Jones his state and federal constitutional right to counsel of his choice?  Should the defendant receive a new trial because the trial court misused its discretion in denying the defendant a new attorney when he had never requested one before, his request came three months and 21 days prior to the scheduled date for trial, and there was evidence of "good cause" in the difficulties between the defendant and trial counsel that were based in part upon the defendant's deafness?	11/12/2009 REVW Oral Arg 04/12/2010	1 Milwaukee	08/04/2009 Unpub
2008AP2595	<u>Wanda Brethorst v. Allstate Property and Casualty Ins. Co.</u>  Whether a finding of wrongful denial of benefits is a condition precedent to proceeding with discovery in a first-party bad faith claim based on wrongful denial of benefits.  In a first-party bad faith claim, if a finding of wrongful denial of benefits is a condition precedent to proceeding with bad faith discovery, does the trial court err if it refuses to grant the insurance company's motion to bifurcate the issues for discovery?  Do the same policy considerations that make it error for the trial court to refuse a motion to bifurcate simultaneous bad faith and breach of contract <u>claims</u> – avoiding undue prejudice to the insurance company, avoiding jury confusion and promoting settlement – make it error to refuse a motion to bifurcate the same two <u>issues</u> when the insured's only claim is bad faith?	02/24/2010 CERT	2 Racine	--
2008AP2812	<u>Glen D. Hocking v. City of Dodgeville</u>  Whether a municipality's representations concerning water drainage qualify as an exception under the statute of repose, Wis. Stat. § 893.89 (4) (b).  Whether a municipality's alleged negligence qualifies as an exception to Wis. Stat. § 893.89 (4) (c).	11/03/2009 REVW Oral Arg 03/03/2010	4 Iowa	07/29/2009 Pub 2009 WI App 108 770 N.W.2d 761

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Case No.	Caption/Issue(s)	SC Accepted	CA Dist/ Cty	CA Decision
*2008AP2897	<u>Link Snacks, Inc. v. Jay E. Link</u>  Under Wis. Stat. § 895.043(3), may the circuit court submit the issue of punitive damages to the jury in the absence of evidence warranting a conclusion to a reasonable certainty that the party against whom punitive damages may be awarded acted maliciously toward the plaintiff or in an intentional disregard of the rights of the plaintiff?  Does the twenty-day period for filing motions after verdict in Wis. Stat. § 805.16(1) begin to run only upon the final disposition of the entire litigation?  Under the benefit-estoppel doctrine, does the plaintiff's compliance with an unconditional circuit court order requiring him to sell his shares in defendant corporation entered over his object constitute a voluntary waiver of his appellate rights?  Does the benefit-estoppel doctrine require dismissal of the plaintiff's appeal when the issues raised in the appeal neither challenged nor depended upon the reversal of the order under which he received the alleged "benefit" – that is, the payment for his shares at the price sought to be paid by defendant corporation?  Is the benefit-estoppel doctrine inapplicable because the petitioner's appeal could not have left him in a worse position than the circuit court order under which he received payment for his services?	05/13/2010 REVW	3 Washburn	11/17/2009 Unpub
2008AP2937	<u>Mercycare Ins. Co. v. Wisconsin Commissioner of Ins.</u>  Whether Wis. Stat. § 632.895 (7) permits an insurer to exclude maternity coverage for an insured acting as a surrogate mother.  What level of deference, if any, should be accorded by the court to a decision issued by the Office of the Commissioner of Insurance?	11/03/2009 CERT Oral Arg 03/02/2010	4 Rock	--

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Case No.	Caption/Issue(s)	SC Accepted	CA Dist/Cty	CA Decision
2008AP3007-CR	<u>State v. Brad E. Forbush</u>  Whether the right to counsel under the Wisconsin Constitution prohibits the state from interrogating a represented individual once the state is aware of the representation  Whether a suspect made an equivocal request for counsel during police questioning, thereby invoking his right to counsel under the Wisconsin Constitution and requiring suppression of his confession at trial  Whether the circuit court's suppression order should be affirmed without reaching the viability of <u>State v. Dagnall</u> , 2000 WI 82, 236 Wis. 2d 339, 612 N.W.2d 680 (the Sixth Amendment prohibits the police from questioning a person represented by an attorney on criminal charges without the attorney present).  What impact does <u>Montejo v. Louisiana</u> , 556 U.S. ___, 129 S. Ct. 2079 (2009) have upon the facts of this case and <u>State v. Dagnall</u> ?	03/16/2010 REVW	2 Sheboygan	01/27/2010 Pub 2010 WI App 11
2008AP3065/ 2008AP3066/ 2008AP3067	<u>Sheboygan County DH &amp; HS v. Tanya M. B.</u>  Whether Wis. Stat. § 48.355 requires the trial court to order the DH & HS to provide specific services in a CHIPS (Children In Protective Services) dispositional order aside from the Department's inherent duty to supervise the case, such that failure to do so render the order void.  Whether the parents waived their right to challenge the form and validity of the CHIPS order by submitting to the court's jurisdiction for four years.	09/11/2009 REVW Oral Arg 12/08/2009	2 Sheboygan	05/27/2009 Unpub
2008AP3135	<u>Society Insurance v. LIRC</u>  Has the Wisconsin legislature violated the constitutional rights of employers and their worker's compensation carriers by retroactively shifting the burden of ongoing disability compensation from the state to the insurer?	11/12/2009 CERT Oral Arg 03/09/2010	2 Fond du Lac	---
2008AP3144-CR	<u>State v. Gerard W. Carter</u>  Do violations of Illinois' zero tolerance (absolute sobriety) law count as prior offenses for sentence enhancement purposes under Wisconsin's Operating While Intoxicated (OWI) Law (Wis. Stat. §§ 346.63 and 346.65)?  What methodology are trial courts to employ in determining whether to count out-of-state OWI-related offenses for sentence enhancement purposes under Wis. Stat. § 343.307?	03/09/2010 REVW	2 Walworth	10/28/2009 Pub 2009 WI App 156 775 N.W.2d 297

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Case No.	Caption/Issue(s)	SC Accepted	CA Dist/Cty	CA Decision
2009AP3-CR	<u>State v. Travis Vondell Cross</u>  Whether a defendant who plead guilty to a crime under the mistaken belief that he faced greater potential punishment than he actually faced is, upon postconviction motion, entitled to an automatic plea withdrawal under due process grounds or whether he must show that a plea withdrawal is necessary to correct a manifest injustice.  Whether the Court of Appeals' holdings in <u>State v. Harden</u> , 2005 WI App 252, 287 Wis. 2d 871, 707 N.W.2d 173 and <u>State v. Quiroz</u> , 2002 WI App 52, 251 Wis. 2d 245, 641 N.W.2d 715 (petition for review denied) are in conflict.	07/15/2009 BYPA Oral Arg 12/01/2009	3 St. Croix	---
*2009AP118	<u>State of Wisconsin v. Alan Keith Burns</u>  Is the Appellant entitled to a new trial in the interests of justice where (a) the circuit court banned the Appellant from presenting evidence that the victim's post-assaultive behavior and loss of virginity was due to her having been sexually assaulted by her grandfather rather than the Appellant, and (b) the state argued that there was no other explanation for the victim's behavior than that the Appellant was guilty?	05/13/2010 REVW	4 Richland	01/28/2010 Unpub
*2009AP120	<u>Dawson v. Town of Jackson</u>  Does "acting together" under Wis. Stat. § 82.21(2) require that the separate votes taken by two governing bodies in deciding an application to lay out, alter, or discontinue a public highway across municipal lines be counted in the aggregate as if the boards voted as one board?  Does the prescribed method of certiorari review pursuant to Wis. Stat. § 82.21(2) preclude a declaratory judgment action?  Should the respondents be equitably estopped from asserting any position inconsistent with their prior actions and representations to the town boards which led up to the joint meeting to consider the respondents' application to discontinue the town-line road?	05/13/2010 REVW	2 Washington	01/06/2010 Pub 2010 WI App 24
2009AP136/ 2009AP137/ 2009AP138/	<u>Sheboygan County DH &amp; HS v. William L.</u>  Whether Wis. Stat. § 48.355 requires the trial court to order the DH & HS to provide specific services in a CHIPS (Children In Protective Services) dispositional order aside from the Department's inherent duty to supervise the case, such that failure to do so render the order void.  Whether the parents waived their right to challenge the form and validity of the CHIPS order by submitting to the court's jurisdiction for four years.	09/11/2009 REVW Oral Arg 12/08/2009	2 Sheboygan	05/27/2009 Unpub

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Case No.	Caption/Issue(s)	SC Accepted	CA Dist/Cty	CA Decision
2009AP524	<u>Metropolitan Associates v. City of Milwaukee</u>  Does the court of appeals holding – that portions of Wis. Stat. § 74.37, as amended by 2007 Wisconsin Act 86, do not violate the equal protection clause – conflict with this court's decision in Nankin v. Village of Shorewood, 2001 WI 92, 245 Wis. 2d 86, 630 N.W.2d 141?	12/15/2009 REVW Oral Arg 04/12/2010	1 Milwaukee	09/09/2009 Pub 2009 WI App 157
2009AP688	<u>Susan Foley-Ciccantelli v. Bishop's Grove Condominium Association, Inc.</u>  Can a circuit court disqualify retained counsel-of-record in a civil suit, thereby denying the client the right to representation by chosen counsel and restricting the attorney's right to practice law in a civil action, where the attorney previously represented a nonparty witness for the opposing side?	04/19/2010 CERT	2 Waukesha	--
2009AP728	<u>Wisconsin Medical Society, Inc. and David M. Hoffman, M.D. v. Michael L. Morgan</u>  Do the plaintiffs have a protectable property interest in the Injured Patients and Families Compensation Fund?  Is a statute that retroactively repudiates a government's contractual obligation constitutional?	01/13/2010 CERT Oral Arg 04/15/2010	4 Dane	--

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*2009AP828	<u>Ryan C. Tews v. NHI, LLC</u>	05/13/2010	4 Jefferson	02/18/2010 Unpub
	Does filing a motion for summary judgment without any supporting affidavit render it a motion to dismiss?			
	Do the deadlines for summary judgment affidavits as set forth in Wis. Stats. § 802.08(2) begin to apply as of the date of filing a de facto motion to dismiss as though it were a motion for summary judgment?			
	When the Defendant movant filed its first affidavit in support of summary judgment five days before the hearing, did that require the Plaintiff to file his reply that same day or be defaulted?			
	Do factual issues raised only in a brief responding to a de facto motion for dismissal but captioned "Notice of Motion for Summary Judgment," wherein no affidavit was filed by either party, then convert the motion to dismiss to a motion for summary judgment?			
	Can a Defendant's default summary judgment motion be properly granted upon a de facto motion to dismiss based on Plaintiff's failure to raise an issue of fact by affidavit, even though Defendant's mislabeled Motion for Summary Judgment was not supported by an affidavit?			
	Does a Plaintiff's reliance on miscaptioning of a de facto notice of motion to dismiss labeled a "Notice of Motion for Summary Judgment" filed without a supporting affidavit constitute excusable neglect, or no neglect at all, for not filing an affidavit, when no affidavit was filed by the moving party to which Plaintiff could respond?			
	Did the trial court misapply Wis. Stats. §§ 802.06(2) and 802.08(2) and abuse its discretion when refusing to consider Plaintiff's affidavit filed one day following Defendant's very first affidavit in a procedure commenced by a mislabeled motion for summary judgment?			
	Did the trial court create an ex post facto scheduling order for a muddled Motion to Dismiss/Motion for Summary Judgment denying Plaintiff reasonable notice, due process of law, and his day in court?			
	Does the Court of Appeals' comment on insufficiency of disregarded relation back arguments in a brief and an affidavit from Plaintiff disregarded as untimely constitute dicta?			

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Case No.	Caption/Issue(s)	SC Accepted	CA Dist/Cty	CA Decision
2009AP1021	<u>Estate of James F. Sheppard v. Jessica Schleis, et al.</u>  Does Internal Revenue Code § 2207B (26 U.S.C. 2207B) require a beneficiary to reimburse the estate for federal tax liability incurred on payable on death (POD) accounts?  When the deceased is intestate, does the doctrine of limited equitable apportionment require the beneficiary of POD accounts to pay both federal and Wisconsin estate taxes incurred on such non-probate property?  Is the beneficiary's agreement to pay her proportional share of federal and Wisconsin estate taxes enforceable in either law or in equity?	11/03/2009 BYPA <b>Affirmed</b> <b>05/04/2010</b> <b>2010 WI 32</b>	2 Washington	--
2009AP1874-AC	<u>Metropolitan Milwaukee Association of Commerce, Inc. v. City of Milwaukee</u>  Whether a direct legislation ballot question put before voters complied with the statutory requirement that it contain "a concise statement" of an ordinance's nature, in compliance with Wis. Stat. § 9.20(6) (2007 – 08).	03/16/2010 CERT	1 Milwaukee	--
*2009AP2973	<u>Tammy W-G. v. Jacob T.</u>  Does "acting together" under Wis. Stat. § 82.21(2) require that the separate votes taken by two governing bodies in deciding an application to lay out, alter, or discontinue a public highway across municipal lines be counted in the aggregate as if the boards voted as one board?  Does the prescribed method of certiorari review pursuant to Wis. Stat. § 82.21(2) preclude a declaratory judgment action?  Should the respondents be equitably estopped from asserting any position inconsistent with their prior actions and representations to the town boards which led up to the joint meeting to consider the respondents' application to discontinue the town-line road?	05/13/2010 CERT	4 Grant	--

**NOTE: The statement of the issue is cursory and does not purport to be an all-inclusive, precise statement of the issues in the case. Readers interested in a case should determine the precise nature of the issues from the record and briefs filed with the Supreme Court.**